

BYLAW NO. 1143/23

BEING A BYLAW OF CLEARWATER COUNTY, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF ESTABLISHING A CODE OF CONDUCT FOR COUNCIL, AND OTHER BODIES ESTABLISHED BY COUNCIL, THE CONDUCT OF COUNCILLORS AND THE CONDUCT OF MEMBERS OF OTHER BODIES ESTABLISHED BY COUNCIL.

WHEREAS Section 146.1(1) of the *Municipal Government Act*, as amended, a Council must, by Bylaw, establish a code of conduct governing the conduct of Councillors;

AND WHEREAS Section 146.1(3) of the *Municipal Government Act*, as amended, a Council may, by Bylaw, establish a code of conduct governing the conduct of members of Council committees and other bodies established by the Council who are not Councillors;

AND WHEREAS Section 3 of the *Municipal Government Act* establishes Municipal Purposes;

AND WHEREAS Section 153 of the *Municipal Government Act* establishes General Duties of Councillors;

NOW, THEREFORE, upon compliance with the relevant requirements of the *Municipal Government Act*, the Council of the Clearwater County, Province of Alberta, duly assembled, enacts as follows:

1. TITLE

- 1.1. This Bylaw may be referred to as the "Code of Conduct Bylaw".

2. DEFINITIONS

In this Bylaw:

- 2.1 "Act" means the *Municipal Government Act*, R.S.A .2000, Chapter M-26
- 2.2 "Administration" means the Chief Administrative Officer (CAO) and all municipal employees under the CAO's authority.
- 2.3 "Chair" means the Reeve, Deputy Reeve or other person authorized to preside over a meeting.
- 2.4 "CAO" means the Chief Administrative Officer of Clearwater County or designate.
- 2.5 "Conflict of Interest" means a pecuniary interest as described by s.170 of *Municipal Government Act* or a situation in which a member is in a position to derive personal or family benefit from actions or decisions made in their official capacity.
- 2.6 "Council" means the municipal Council of Clearwater County.
- 2.7 "Councillor" means a member of Council who is duly elected and continues to hold office and includes the Reeve.
- 2.8 "Council Committee" means any committee, board or other body established by Council by Bylaw under the Act.

- 2.9 "In-Camera" means a meeting or portion of a meeting of Council or a Council Committee without the presence of the public where the matter to be discussed is within one of the exceptions to disclosure in Division 2, of Part 1 of the *Freedom of Information and Protection of Privacy Act*.
- 2.10 "Member" means a Councillor and, where the context requires, includes an individual appointee of a Council Committee who is not a Councillor.
- 2.11 "Pecuniary Interest" means a pecuniary interest as defined within the *Municipal Government Act*.
- 2.12 "Reeve" means the Chief Elected Official of the County.

3. APPLICATION AND INTERPRETATION

- 3.1 The Code of Conduct attached as Schedule "A" to this Bylaw represents the Code of Conduct that is applicable to all Councillors for Clearwater County and Member(s) of Council Committees.
- 3.2 The Code of Conduct attached as Schedule "A" to this Bylaw shall be observed in all proceedings of Council and Council Committees and as a Member conducts themselves in all public settings.
- 3.3 If there are any inconsistencies between this Bylaw and policies or procedures previously established by Clearwater County, this Bylaw shall take precedence.
- 3.4 Members shall use this Bylaw as a guide to conduct themselves in a manner that reflects the spirit and intent of the position of public trust that they hold.
- 3.5 This Bylaw shall be presented as part of Council's orientation at the beginning of each term of Council.
- 3.6 This Bylaw shall be brought forward for review at least every 4 years, when relevant legislation is amended, and at any other time that Council considers appropriate to ensure that it remains current and continues to accurately reflect the standards of ethical conduct expected of Members.
- 3.7 Each Member will receive a copy of this Bylaw at the commencement of their term.
- 3.8 References to provisions of statutes, rules or regulations shall be deemed to include all references to such provisions as amended, modified or re-enacted from time to time.
- 3.9 Nothing in this Bylaw relieves any person from compliance with any other Bylaw or applicable federal or provincial law, regulation, or enactment.

4. SEVERABILITY

- 4.1 If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion shall be severed and the remainder of the Bylaw shall be deemed valid.

5. EFFECTIVE DATE

5.1. This Bylaw comes into force and effect upon third and final reading.

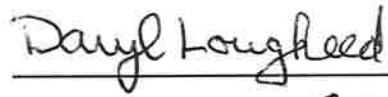
5.2 Bylaw No. 1034/17 is hereby repealed.

READ A FIRST TIME this 11th day of April, 2023.

READ A SECOND TIME 11th day of April, 2023.

PERMISSION FOR THIRD READING granted this 11th day of April, 2023.

READ A THIRD AND FINAL TIME this 11th day of April, 2023.



REEVE



CHIEF ADMINISTRATIVE OFFICER

GOVERNING PRINCIPLES

The Public expects the highest standards of personal and professional conduct from Members elected to Clearwater County Council or appointed to Council Committees.

This Code of Conduct sets out guidelines for the ethical and interpersonal conduct of Members.

Clearwater County requires that Members conduct themselves so as to maintain the honour and respect of their position and to not engage in actions which are, or could be reasonably perceived as, damaging to the trust, confidence and faith of the public.

Members must always seek to advance the good of Clearwater County as a whole, for which they serve, and shall truly, faithfully and impartially exercise the duties and responsibilities of their position to the best of their knowledge and ability.

Members must adhere to all Council policies, respecting the Municipality and its Bylaws.

CODE OF CONDUCT

Members will:

Foster Respect for Decision-making Process

1. Maintain the highest standards in public office and faithfully discharge the duties of their office in accordance with the requirements and obligations set out in the legislation of the Province of Alberta;
2. Accurately communicate the decisions of the Council, or the Committee, even if the Member disagrees with the decision, such that respect for Council's decision-making processes is fostered; and
3. Communicate concerns amongst the presence of the entire Council or Committee body and when publicly expressing personal opinions, doing so in a manner that maintains respect for other Members and any decisions made by Council or Committee.

Release of Confidential Information

4. Use confidential information only in their role as a Member of Council or a Council Committee, and not for the personal profit of themselves or any other person;
5. Communicate confidential information only when authorized to do so;
6. Hold in strict confidence all information concerning matters dealt with during in-camera meetings;
 - a. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any aspect of the in-camera deliberations to anyone, unless expressly authorized by Council or required by law to do so.
7. Inform themselves of and strictly adhere to the provisions of the *Freedom of Information and Protection of Privacy Act*;
8. Not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so; and,
9. Not release, disclose, publish, comment on or misuse confidential information (information that they have knowledge of by virtue of their position as a Member) that is not in the public domain, including emails and correspondence from other Members or third parties.

Release of Information to Public and Media

10. Acknowledge that official information related to decisions and resolutions made by Council or Committee will normally be communicated to the public and the media by the Reeve, or Chair of the Committee, or by the CAO or by other administrative staff as delegated by the CAO.
 - a. Members must keep in mind they are always a representative of Clearwater County, and Members are encouraged to identify when views expressed are theirs alone and not official Clearwater County communication.

Avoid Conflict of Interest*

11. Use their position for the good of the community and not to secure special privileges, favours or exemptions for themselves or any other person;
12. Not use any influence of office for any purpose other than official duties;
13. Not solicit, demand or accept the services of any municipal employee, or individual providing services on a contract for service, for re-election or re-appointment purposes, or to gain employment with the County for themselves, family members or close associates;
14. Not use any information gained in the execution of office that is not available to the general public for any purpose other than official duties;
15. Not engage in any activity, pecuniary or otherwise, which is incompatible or inconsistent with the ethical discharge of official duties in the public interest;
16. Not place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment;
17. Not give preferential treatment to any person or organization in which a Councillor has a pecuniary interest;
18. Not influence any administrative, Council or Committee decision or decision-making process involving or affecting any person or organization in which a member has a pecuniary interest; and,
19. Not use municipal materials, equipment, facilities or employees for personal gain or for any private purpose.

**Members who have a Conflict of Interest in a matter before Council or a Council Committee shall disclose the general nature of their interest and follow the procedure set out in s.172 of the MGA.*

Acceptance of Gifts Prohibited

20. Not solicit, accept, offer or agree to accept a commission, reward, gift, advantage or benefit of any kind, personally or through a family member or friend, which is connected directly or indirectly with the performance or duties of office.

The following are recognized as exceptions:

- i. Token or minor gifts valued at less than \$100 (such as corporate logoed items or commemorative gifts), or gifts involving tickets for event attendance of no more than \$300; cash or prizes from "luck of the draw" events (e.g. raffles, door prizes) or other advantages from any person or organization not connected directly or indirectly with the performance or duties of office.
- ii. Political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- iii. Food and beverages at banquets, receptions, ceremonies or similar events;

- iv. Services provided without compensation by persons volunteering their time;
- v. Food, lodging, transportation and entertainment provided by other levels of governments or by other local governments, boards or commissions;
- vi. A reimbursement of reasonable expenses incurred in the performance of duties or office, in accordance with Clearwater County's *Council and Board Remuneration* policy or *Travel and Subsistence for Staff and Council* policy;
- vii. Gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of office.

Avoidance of Waste

- 21. Avoid waste, abuse and extravagance in the provision or use of public resources, and shall identify and discuss any misuse of which the Member is aware with the Reeve, Council, Council Committee Chair or the CAO.

Treat Every Person with Dignity, Understanding and Respect

- 22. Treat every person, including other Members, municipal employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect for the right to equality and the right to an environment that is safe and free from harassment, discrimination and disrespect;
- 23. Not discriminate against anyone on the basis of their race, religious beliefs, ancestry, place of origin, colour, gender, gender identity, gender expression, sexual orientation, age, family status, or physical disability or mental disability;
- 24. Not to engage in harassment or vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome; and,
- 25. Maintain a high level of respectful dialog with other Members, the CAO, Administration, stakeholders and the public at large.

Leadership and Governance

- 26. Commit to ethical, businesslike and lawful conduct, including proper use of authority and appropriate decorum when acting as a Member;
- 27. Participate actively, openly, and transparently in the democratic process;
- 28. Preserve the integrity and impartiality of Council, or the Council Committee, when working with other levels of government;
- 29. Provide leadership, through the governance process and not take on responsibilities delegated to Administration;
- 30. Limit interactions with municipal staff to direction provided through the CAO;
- 31. Attend Councillor orientation, or Council Committee orientation, and other training sessions offered by the municipality;
- 32. Protect the reputation of the Council, the Council Committee and Administration;
- 33. Uphold the intent of this Bylaw and govern their actions accordingly; and,

Compliance with this Code of Conduct

- 34. Any reported violation of a provision of this Code of Conduct may be subject to investigation by Council or a third-party investigator appointed by Council.

35. Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this Code of Conduct.

36. A Member must not:

- (a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to Council or to any other person in accordance with this Code of Conduct; or
- (b) obstruct Council, or any other person, in carrying out the objectives or requirements of this Code of Conduct.

Remedial Action

37. Remedial action is intended to be corrective, serve as a deterrent, and follow the principle of progressive discipline. Prior to imposing any remedial action, Council will take into consideration the nature and severity of the breach as well as whether the Member has previously breached this Code of Conduct.

38. If Council determines it appropriate to do so, Council may impose sanctions on a Member who contravenes this Code of Conduct. Sanctions that may be imposed on a Member by Council include:

- (a) issuing a letter of reprimand addressed to the Member;
- (b) requesting the Member to issue a letter of apology;
- (c) publicly reprimanding the Member by motion of censure;
- (d) publishing a letter of reprimand or request for apology and the Member's response;
- (e) requiring the Member to attend specified training;
- (f) suspending or removing the appointment of the Member as the deputy chief elected official or acting chief elected official under section 152 of the Act;
- (g) suspending or removing the chief elected official's presiding duties under section 154 of the Act;
- (h) suspending or removing the Member from membership on a Council Committee;
- (i) suspending or removing the Member from chairing a Council Committee;
- (j) requiring the Member to return municipal property or reimburse its value;
- (k) restricting the Member's access to municipal facilities, property, equipment, services and supplies;
- (l) restricting the Member's travel and representation on behalf of Council or a Council Committee;
- (m) restricting how documents are provided to the Member (e.g. no electronic copies, but only watermarked paper copies for tracking purposes);
- (n) reporting the misconduct to the Minister of Municipal Affairs; or
- (o) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent the Member from fulfilling the legislated duties of a Councillor, if applicable, and the sanction is not otherwise contrary to law,

but nothing in this Code of Conduct requires Council to impose a sanction for any contravention.

Informal Complaint Process

39. Any person who identifies or witnesses behaviour or activity by a Member that they reasonably believe, in good faith, is in contravention of this Code of Conduct is encouraged to attempt to address the prohibited behaviour or activity informally, where appropriate, by:

- (a) advising the Member that the behaviour or activity appears to contravene this Code of Conduct;
- (b) encouraging the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity; and
- (c) if addressing the Member privately does not resolve the matter, requesting the Reeve to assist in informal discussion of the informal complaint with the Member in an attempt to resolve the issue. In the event that the Reeve is the subject of, or is implicated in a complaint, request the assistance of the Deputy Reeve.

40. People are encouraged to pursue this informal complaint process as the first means of remedying behaviour or activity that they believe violates this Code of Conduct. However, a person is not required to complete this informal complaint process prior to pursuing the formal complaint process outlined below.

Formal Complaint Process

41. Any person who identifies or witnesses behaviour or activity by a Member that they reasonably believe, in good faith, is in contravention of this Code of Conduct may file a formal complaint in accordance with the following conditions:

- (a) a complaint must be made in writing and include the complainant's name and contact information;
- (b) a complaint must be addressed to Council, attention of the Reeve. In the event that the Reeve is the subject of, or is implicated in a complaint, the complaint must be addressed to the attention of the Deputy Reeve;
- (c) a complaint must include the name of the Member(s) alleged to have contravened this Code of Conduct, the specific provision(s) of the Code of Conduct allegedly contravened and the facts surrounding the allegation, including the names of any witnesses.

42. A complaint must be received not later than 60 days after the date the person became aware of the conduct giving rise to the complaint. Council may, in its discretion, accept a complaint received beyond this time limit if:

- (a) the delay in filing a formal complaint occurred in good faith;
- (b) it is in the public interest to investigate or to give consideration whether to investigate; and
- (c) no substantial prejudice will result to any person because of the delay.

43. Upon receipt of a formal complaint, the complaint will be

- (a) provided to the Member(s) whose conduct is in question, and
- (b) added as a confidential agenda item to the agenda of the next regular meeting of Council or a special meeting of Council called to consider the complaint.

44. Complaints that

- (a) are not about a current Member, or
- (b) are covered by other applicable legislative appeal, complaint or court processes, will be immediately dismissed and the complainant will be advised in writing, with reasons, and provided with information regarding other options, if applicable. The Member(s) alleged to have contravened this Code of Conduct will also be advised in writing, with reasons.

45. If Council is of the opinion that

- (a) a complaint is frivolous or vexatious or is not made in good faith, or
- (b) there are no grounds or insufficient grounds for conducting an investigation, Council may choose not to investigate or may dispose of the complaint in a summary manner. In such event, the complainant and the Member(s) alleged to have contravened this Code of Conduct will be advised in writing, with reasons.

46. If Council decides to investigate the complaint, it shall take such steps as it may consider appropriate in the circumstances having regard for the specific nature of the complaint, which may include:

- (a) retaining a third-party investigator to investigate the complaint; or
- (b) if the material facts are not in dispute or the alleged misconduct is admitted by the Member(s) whose conduct is in question, proceeding to decide on the validity of the complaint without further investigation.

47. Complaint investigations will be conducted in a fair, timely, and confidential manner that respects the principles of procedural fairness and natural justice.

48. Prior to commencing an investigation, the complainant and the respondent Member(s) will be advised, in writing, of the investigation process.

49. A Member who is the subject of a complaint investigation is entitled to be represented by legal counsel, at the Member's sole expense.

50. During an investigation, a complainant or witness may be asked to provide additional information. Municipal staff may also be requested to provide information, and any person conducting an investigation under this Code of Conduct may look at any record or thing belonging to or used by the municipality, and enter any municipal facility for the purpose of completing the investigation.

51. The Member(s) whose conduct is in question is entitled to disclosure of all relevant information gathered during an investigation and must be given an opportunity to respond to the complaint before Council deliberates and disposes of the complaint. No investigation will be concluded or any investigation report issued in relation to a complaint, if applicable, unless a Member whose conduct is in question has had reasonable notice of the basis for the proposed findings and conclusion as to whether or not a complaint is substantiated and an opportunity to respond to the proposed findings and conclusion.
52. Upon conclusion of the investigation, Council will convene at a private meeting of Council, excluding the Member(s) alleged to have contravened the Code of Conduct and any Member complainant(s), to consider the results of the investigation and dispose of the complaint. The complainant and the Member(s) alleged to have contravened the Code of Conduct will be advised of the Council's disposition of the complaint, in writing, with reasons.
53. A Member who files a formal complaint under this Code of Conduct or against whom a formal complaint is made must not participate in conducting the investigation of the complaint.
54. All formal complaints received under this Code of Conduct and all information and records received, reviewed or generated during the course of an investigation and disposition of a formal complaint, including interviews and investigation reports, are and must remain strictly confidential, unless Council directs otherwise. Any unauthorized public disclosure related to a formal a complaint by a Member is deemed to be a violation of this Code of Conduct.